

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**BESSEMER SYSTEM FEDERAL CREDIT )  
UNION, )**

Plaintiff, )

vs. )

**FISERV SOLUTIONS, LLC, f/k/a FISERV )  
SOLUTIONS, INC., and FISERV, INC., )**

Defendants. )

Case No. 2:19-cv-00624-RJC

**JOINT STATUS REPORT**

Plaintiff Bessemer System Federal Credit Union (“Bessemer”) and Defendants Fiserv Solutions, LLC, f/k/a Fiserv Solutions, Inc., and Fiserv, Inc. (together, “Defendants”) submit this joint status report pursuant to the Court’s Order of May 26, 2022. (Dkt. 190.)

*Plaintiff’s Position*

Following the conference with the Court on May 26<sup>th</sup>, Plaintiff’s counsel reviewed the Special Master candidates referenced by the Court (Cecilia Dickson, Susan Ardisson, Andrew Fletcher, Ronald Hicks, Mary-Jo Rebelo, and John Schwab) and sought to confer with opposing counsel to select a mutually agreeable Special Master candidate. Fiserv’s lead counsel has not participated in any meet and confer to select a Special Master, and the parties remain at an impasse.

On May 31<sup>st</sup>, an associate on the defense team advised that Fiserv rejected all six candidates referenced by the Court. Fiserv instead proposed Mark Shepard (who is serving as the mediator in this case), Jaime Tuite (who was previously proposed and was rejected before the last conference with the Court), and Gary P. Hunt. In response, Bessemer proposed two of the candidates referenced by the Court, Susan Ardisson and Mary-Jo Rebelo. By emails sent this afternoon, Fiserv rejected Ms. Ardisson and Ms. Rebelo and proposed Andrew Fletcher. No meet and confer has occurred regarding the parties’ final selections.

Plaintiff thanks the Court for identifying special master candidates and has no objection to any of the candidates referenced by the Court. The lack of participation by Fiserv’s lead counsel in the meet and confer process – and Fiserv’s refusal to consider any of the candidates referenced by the Court until this afternoon – has frustrated efforts to meet and confer. Bessemer respectfully requests that the Court select Ms. Ardisson or Ms. Rebelo to serve as special master, both of whom have appropriate subject matter expertise.

June 1, 2022

Page 2

*Defendants' Position*

Unfortunately, Bessemer's position statement is inaccurate and has unnecessarily complicated what should be a simple list of names.

On May 31, 2022 Defendants' undersigned counsel, Jesse Byam-Katzman, called Mr. Nerko to meet and confer regarding special master candidates and left a voicemail for Mr. Nerko. A few hours later, Mr. Benjamin Wilkinson returned Mr. Katzman's call, and Mr. Katzman proposed on behalf of Defendants the following candidates: Mark Shepard, Jaime Tuite, and Gary Hunt. At no point did Mr. Katzman state that Defendants rejected the six candidates referenced by the Court during the status conference.

Mr. Nerko responded by email that afternoon and rejected each of Defendants' proposals. Mr. Nerko's email stated: "By all objective measures, each of the six special master candidates proposed by Judge Colville (Cecilia Dickson, Susan Ardisson, Andrew Fletcher, Ronald Hicks, Mary-Jo Rebelo, and John Schwab) is highly experienced and would make a terrific special master." Mr. Nerko's email further stated: "Bessemer is inclined to request the Court appoint Ms. Rebelo or Ms. Ardisson, or one of the other candidates suggested by the Court."

Defendants' counsel responded by email on June 1, 2022, and, in interest of reaching agreement on a special master particularly suitable for this case, proposed Andrew K. Fletcher, one of the candidates that the Court suggested. Notwithstanding Bessemer's counsel's prior statements, Bessemer has not agreed to Mr. Fletcher. Nor, however, has Bessemer rejected the appointment of Mr. Fletcher or explained why, in light of its prior position that any of the candidates that the Court suggested would be "terrific," Mr. Fletcher is apparently not acceptable. Instead, Bessemer simply sent Fiserv's counsel its portion of the joint status report.

Defendants respectfully request that the Court appoint one of the following candidates:

- Jaime Tuite
- Andrew K. Fletcher

Dated: June 1, 2022

Respectfully submitted,

/s/ Charles J. Nerko

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June 1, 2022

Page 3

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